

RECEIVED

'88 JUL 27 PM 12:48

FEDERAL MARITIME COMMISSION

FED. MAR. COM. 10-11

ADMIN. DIV. 10-11

DOCKET NO. 87-2

**INVESTIGATION OF REBATES AND OTHER MALPRACTICES-
YANGMING MARINE LINE, A.K.A., YANGMING MARINE TRANSPORT
CORPORATION AND YANG MING LINE**

**PROPOSED SETTLEMENT JOINTLY SUBMITTED BY
RESPONDENT AND HEARING COUNSEL**

WHEREAS, by Order of February 25, 1987 ("the Order"), the Commission commenced an investigation against Respondent to determine whether, during the period since January 1, 1983, Respondent paid rebates to Taiwanese consignees in connection with shipments of cotton from the United States, and participated in arrangements with others to pay expenses incurred by certain shippers or consignees of cotton and other commodities; and

WHEREAS, the Bureau of Hearing Counsel avers it can establish that on shipments to Taiwan during the period under investigation, Respondent paid rebates to consignees of cotton in violation of sections 16 and 18(b)(3) of the Shipping Act, 1916 (1916 Act) and sections 10(b)(2) and 10(b)(4) of the Shipping Act of 1984 (1984 Act); and

WHEREAS, Respondent believes and asserts it would establish that its actions were conducted in good faith without knowledge of any wrongdoing and were in all respects lawful under the 1916 Act and the 1984 Act; and

WHEREAS, the parties wish to minimize the time and expense of this proceeding; and

WHEREAS, in order to settle the issues raised by the Order, Respondent is willing to (1) cease and desist from making payments or assessing charges on cotton shipments except in accordance with the provisions of its tariffs or service contracts on file with the Commission; (2) pay a civil penalty; and (3) provide the Commission with certain information;¹ and

WHEREAS, this proposed settlement is conditioned upon the issuance of a final order which disposes of this proceeding and states that any investigation, assessment proceeding, civil action, demand for recovery of civil penalties, or other relief against Respondent for violations of the 1916 Act or the 1984 Act occurring in the U.S./Taiwan Trade prior to November 1, 1987 forever shall be barred; and

WHEREAS, the parties join in this proposed settlement and urge its approval;

NOW THEREFORE, the parties propose the following settlement:

1. That Respondent shall cease and desist from making payments or assessing charges on cotton shipments except in accordance with the provisions of its tariffs or service contracts on file with the Commission;

2. That the final order in this proceeding shall become effective as to Respondent upon Respondent's payment to the Commission, without admission of violation of law, the sum of

¹ It is not believed useful nor desirable to set forth, herein, further details concerning other ongoing investigations.

\$168,666.67 (on deposit since September 30, 1987 in an interest bearing escrow account for the benefit of the Commission) plus the accumulated interest;

3. That upon final approval of this proposed settlement, Respondent will provide the Commission with certain information;

4. That, upon final approval of this settlement, any investigation, assessment proceeding, civil action, demand for recovery of civil penalties, or for other relief against Respondent for violations of the Shipping Act, 1916 or Shipping Act of 1984 occurring in the U.S./Taiwan trade prior to November 1, 1987 forever shall be barred; and

5. That factual and legal support for this proposed settlement are attached hereto and are submitted for purposes of this settlement only.

Dated July 26, 1988

Seymour Glazer
Seymour Glazer, Director
Bureau of Hearing Counsel

Paul M. Keane
Paul M. Keane, Counsel
Yangming Marine Line

Paul J. Kaller
Paul J. Kaller
Bureau of Hearing Counsel

(FEDERAL MARITIME COMMISSION)
(SERVED SEPTEMBER 23, 1988)
(EXCEPTIONS DUE 10-17-88)
(REPLIES TO EXCEPTIONS DUE 11-9-88)

FEDERAL MARITIME COMMISSION

DOCKET NO. 87-2

INVESTIGATION OF REBATES AND OTHER MALPRACTICES -
YANGMING MARINE LINE, A.K.A., YANGMING MARINE
TRANSPORT CORPORATION AND YANG MING LINE

Settlement of a proceeding to determine whether or not the Respondent violated sections 10(b)(1)-(4), (6)(A), (8), (10) and (11) of the Shipping Act of 1984 and sections 16 First and Second and 18(b)(3) of the Shipping Act of 1916, by engaging in a series of prohibited practices, and if so to determine whether or not penalties should be assessed and in what amount, approved. The respondent is ordered to pay \$168,666.67, plus interest, pursuant to the terms of a settlement agreement made part of this decision.

Steven H. Vengrow and Paul M. Keane for respondent Yangming Marine Line.

Seymour Glanzer and Paul J. Kaller for the Bureau of Hearing Counsel.

INITIAL DECISION¹ OF JOSEPH N. INGOLIA,
ADMINISTRATIVE LAW JUDGE

This proceeding was instituted by Order of Investigation and Hearing ("Order") served February 25, 1987, pursuant to

¹ This decision will become the decision of the Commission in the absence of review thereof by the Commission (Rule 227, Rules of Practice and Procedure, 46 CFR 502.227).

sections 10, 11 and 13 of the Shipping Act of 1984 (46 U.S.C. app. §§ 1709, 1710 and 1712), and sections 16, 18, 22 and 32 of the Shipping Act, 1916 (46 U.S.C. app. §§ 815, 817, 822 and 831). It was issued to determine whether or not Yangming Marine Line ("YML" or "Yangming") violated sections 10(b)(1)-(4), (6)(A), (8), (10) and (11) of the Shipping Act of 1984 and sections 16 First and Second and 18(b)(3) of the Shipping Act, 1916, by charging, demanding, collecting or receiving different compensation for the transportation of property and for services rendered in connection therewith than the rates and charges shown in its tariffs and service contracts; extending privileges, concessions, equipment or facilities in a manner not in accordance with its tariffs and service contracts; allowing persons to obtain transportation for property at less than the rates and charges established in its tariffs or service contracts by unjust and unfair devices and means; engaging in unfair or unjustly discriminatory practices in the matter of rates, offering or paying deferred rebates; demanding, charging or collecting rates and charges that were unjustly discriminatory between shippers; and by giving unreasonable preferences and advantages to any particular person or description of traffic. The Order also seeks to determine whether civil penalties should be assessed if YML did violate the Shipping Acts, and what other remedial action should be taken.

On July 27, 1988, the Respondent and Hearing Counsel jointly submitted a Proposed Settlement ("Settlement") which is made a part of this decision as Appendix A. Set forth below are facts and discussion pertinent to consideration of the Settlement.

Facts

A. Jointly Stipulated Facts

The parties have jointly stipulated the following facts and they are so found:

1. Yangming is an ocean common carrier headquartered in Taiwan.

2. During the period covered by the investigation, Yangming transported raw cotton from the United States to Taiwan.

3. The Commission's Order of February 25, 1987, instituting this proceeding alleged that since 1983 Yangming paid rebates on cotton shipments to Taiwan and engaged in other malpractices on shipments of cotton and other commodities to Taiwan.

4. After extensive negotiations, and as a preliminary attempt to reduce the volume and expense of discovery, the parties agreed that Yangming would produce transportation documents covering six Yangming voyages in the U.S./Taiwan trade. The six voyages, from the years 1983 through 1986, were selected at random by Hearing Counsel. Documents were made available for inspection by Commission personnel at the New York and Los Angeles offices of Solar International Shipping Agency, Inc. ("Solar"), the general agent, in the United States, for Yangming. The following documents were produced for each of the six vessel voyages: vessel operation files, outport manifests, receiving records including dock receipts and bills of lading, booking sheets, cargo manifests, correction and advice correspondence

with back-up documentation, trailer interchange receipts, claim records, warehouse receipts, accounting records, customs manifests, internal telexes, freight forwarder invoices, export declarations, and shipper instructions.

5. The terms of sale for cotton carried by Yangming from the United States were F.A.S., inasmuch as Taiwanese cotton consignees controlled the routing of cotton cargo and paid the ocean freight.

6. On cotton shipments, persons in Taiwan apply for and receive payments from Yangming in accordance with procedures established by Yangming, including, inter alia, presentation of certain documents, to wit: a Fixture Note, a Letter of Entrustment and an Application for Commission.

7. A Fixture Note is a document issued by Yangming in conjunction with the ocean bill of lading. It reflects a booking arrangement by acknowledging Yangming's acceptance of a specific amount of cotton cargo. It also identifies the cotton consignee as well as the person designated by that consignee to act on its behalf regarding all matters pertaining to the transportation contract.

8. A Letter of Entrustment is a document by which the cotton consignee designates a person to act on its behalf as to all matters pertaining to the transportation contract.

9. An Application for Commission is a request for payment of money. It may be submitted to Yangming by Morrison Shipping Corp. ("Morrison"), a Yangming general sales agent in Taiwan, or by a person the cotton consignee has designated to act on its

behalf as to all matters pertaining to the transportation contract, or by both Morrison and such designee.

10. After the six vessel voyage files were reviewed, see paragraph 4, supra, Yangming agreed to produce the Bills of Lading, Fixture Notes, Letters of Entrustment, and Applications for Commissions covering cotton shipments which moved on those six voyages. Production of these documents was not entirely complete. Yangming explained that those documents which had not been produced could not be located.

11. If this matter were to proceed to hearing, Hearing Counsel could seek discovery of Bills of Lading Fixture Notes, Letters of Entrustment and Applications for Commissions covering all cotton shipments during the period under investigation. YML asserts that because of its manual record retention program, locating these documents would be time consuming and costly. Hearing Counsel would have to allocate additional time and resources to the process of obtaining translations to facilitate review of these documents and to any attendant motion practice involved in discovery of documents located in Taiwan.

12. If this matter were to proceed to hearing, Yangming asserts that it would need to take depositions of non-party witnesses located throughout the United States and Taiwan.

13. The parties estimate that hearings in this proceeding, some of which would be required to be held in California, would take up to four weeks. An extension of the current deadline for completion of the proceeding would be necessary.

14. In addition to alleged rebates on cotton, Hearing Counsel inquired into possible malpractices associated with the movement (Houston to Taiwan) of animal feed supplements (i.e. beet pulp pellets, meat and bone meal, and corn gluten meal). Sworn testimony in conjunction with production of documents was taken by Hearing Counsel from the Presidents of Pacific Eastern Terminal (a terminal operator), Colombo Services (an independent ocean freight forwarder), and Nigeria Standard Shipping Company ("NSSC") (a trucking company). Based upon the evidence developed, Hearing Counsel determined either that there were no violations or that possible violations were not of a nature to warrant further action.

15. Although Hearing Counsel's inquiries expanded into areas which may have gone beyond the scope of the Order, Yangming, nevertheless, produced requested cotton cargo and non-cotton cargo documents relating to suspected U.S. inland malpractice (e.g., absorption, misrating, misapplication of tariff rates, and service contract issues) and responded through the Assistant to the President/Solar (New York) to questions posed by Hearing Counsel. Based upon the information provided, Hearing Counsel determined either that there were no violations or that possible violations were not of a nature to warrant further action.

B. Facts in Dispute

Hearing Counsel avers that as a result of the random samples described in paragraph (4) above, it would be able to establish that:

1. On shipments of cotton to Taiwan, the consignee in Taiwan controlled routing and was the rate payer.

2. On shipments of cotton to Taiwan, YML often made payments of 2½% to Morrison, YML's general sales agent in Taiwan.

3. On cotton shipments in which Morrison participated, as well as those in which it did not participate, YML paid separate 2½% to 5% "commission" to an individual designated by each respective consignee to act on its behalf as to all matters pertaining to the transportation contract. These individual "designated agents" applied for and received "commission" payments under procedures established by YML.

4. On 78 YML shipments, the eleven "designated agents" who received "commission" payments of 2½% to 5% were either officers or employees of the consignees of those shipments. Among the "designated agent" recipients were the Chief Executive Officer, General Manager, Sales Manager, and other officers or employees of consignees.

5. Any claim by YML of lack of knowledge of the connection between consignees and individuals to whom YML made payments could only have resulted from a culpable disregard for information generally known in the Taiwan cotton and shipping communities.

YML asserts that it would establish the following facts (the undersigned has corrected obvious inadvertent errors contained in YML's Statement of Facts):

1. YML has no outside sales force within Taiwan and cotton cargoes moving from the United States to Taiwan are presented to

YML by one of four ways, to wit: (a) directly from the cotton consignee; (b) directly from its general sales agent, Morrison; (c) directly from an individual who represents the Taiwanese cotton consignee; and (d) indirectly from an individual who represents the Taiwanese cotton consignee and tenders the cotton to Morrison who, in turn, makes a booking request for such cargo on a YML vessel.

2. When the cotton cargo is tendered directly to Morrison, the later receives, pursuant to its general agency agreement with YML, a commission of 5%. When cotton is tendered by Morrison who initially received the cargo from an individual who represents the cotton consignee, YML, pursuant to its general agency agreement with Morrison, will split Morrison's commission, i.e. Morrison will receive 2½% and the individual tendering the cotton cargo to Morrison will receive the remaining 2½%. When the cotton is tendered directly to YML from an individual representing the Taiwanese cotton consignee, that individual receives a 2½% commission. No commission is paid to a cotton consignee who directly tenders its cotton cargo to YML.

3. A commission is not paid unless YML has been presented proper documentation, that is, a Letter of Entrustment and an Application for Commission. When an individual tenders the cotton shipment to YML via Morrison, the Application for Commission will reflect the requests of Morrison and the individual for their respective YML commission payment. In all circumstances, the Government of the Republic of China (Taiwan) requires the aforementioned documentation as a condition precedent to any payment of commission.

4. Before any commission is paid to an individual, YML will withhold personal income tax to that individual.

5. It is the accepted practice within the international shipping industry in Taiwan to pay a commission for cotton tendered to ocean carriers.

6. It is lawful under the laws of the Republic of China, specifically the Civil Code, Book of Obligation, for an ocean common carrier to pay commissions pursuant to the circumstances described in the preceding paragraphs.

7. The language of the Letters of Entrustment does not reflect or suggest that the individual who is authorized to make the shipping arrangements on behalf of the cotton consignee with YML (either directly or through Morrison) is an employee of the cotton consignee. Similarly, neither the name "chops" on the Fixture Notes nor on the Application for Commission reflect or suggest that the individual who tendered the cotton to YML (directly or through Morrison) is an employee of the cotton consignee.

8. Documents requested by the Bureau of Hearing Counsel which were produced by YML clearly indicated that a substantial number of individuals tendered cotton cargoes to YML.

9. YML's traffic department clerks who handle the payment of commissions and who review the Letter of Entrustment and Applications for Commissions never received the company business cards which Hearing Counsel claimed to obtain, and they were never on notice or apprised of the fact that any of the individuals receiving the commissions were employees of the

cotton consignees (which were of medium or large size). Further, said clerks were not aware that any commissions received were intended for any other person or entity other than the individual himself.

10. It is and has been YML's company policy that its employees, and those of its individual agents, specifically including Morrison, are instructed about YML's announced policy against rebating in the U.S. trades.

Discussion

In essence, it can be seen from the above and from a fuller reading of the Settlement, that Hearing Counsel alleges that the "commissions" in issue here were actually rebate payments to consignees or to employees of consignees. On the other hand YML asserts that the payment of commissions is lawful in Taiwan, that the documents involved do not indicate "that the individual who tendered the cotton to Yangming (directly or through Morrison) is an employee of the cotton consignee" and that "there is no evidence Yangming's employees, much less Yangming's senior management, had any reason to know or even suspect individuals receiving the cotton commissions were employed by the cotton consignees."

In their Joint Memorandum in Support of the Proposed Settlement the parties describe the evolution of this proceeding. With respect to certain documents pertaining to payments of "commissions" they note that, "Production of these documents was not entirely complete" and that "Yangming explained that those

documents which had not been produced could not be located." The parties also point out that discovery was costly and time-consuming because, not only were offices in the United States and Taiwan involved, as well as the need to translate foreign documents, but also "a manual document retrieval system was the only production option available to Respondent."

The Administrative Procedure Act (5 U.S.C. 554(c)(1) ("APA") requires agencies to give interested parties an opportunity to submit offers of settlement, "when time, the nature of the proceeding, and the public interest permit." Congress intended the provision to be applied liberally stating:

. . . even where formal hearing and decision procedures are available to parties, the agencies and the parties are authorized to undertake the informal settlement of cases in whole or in part before undertaking the more formal hearing procedure. Even courts through pretrial proceedings dispose of much of their business in that fashion. There is much more reason to do so in the administrative process, for informal procedures constitute the vast bulk of administrative adjudication The statutory recognition of such informal methods should strengthen the administrative arm and serve to advise private parties that they may legitimately attempt to dispose of cases at least in part through conferences, agreements, or stipulations.

Senate Committee on the Judiciary, Administrative Procedure Act - Legislative History, S. Doc. No. 248, 79th Cong., 2d Sess. 24 (1946).

It is well-settled that courts generally favor settlements, including those coming under the APA provision. Pennsylvania Gas and Water v. Federal Power Commission, 463 F.2d 1242, 1247 (D.C. Cir., 1972).

The Commission, too, has long recognized and applied the law favoring settlements. In Old Ben Coal Company v. Sea-Land Service, Inc., 21 F.M.C. 506, 512 (1978), 18 SRR 1085, 1092, it stated:

. . . the law favors the resolution of controversies and uncertainties through compromise and settlement rather than through litigation, and it is the policy of the law to uphold and enforce such contracts if they are fairly made and are not in contravention of some law or public policy The resolution of controversies by means of compromise and settlement is generally faster and less expensive than litigation; it results in a saving of time for the parties, the lawyers, and the courts and it is thus advantageous to judicial administration, and, in turn, to government as a whole.

See also Del Monte Corp. v. Matson Navigation Co., 22 F.M.C. 365 (1979), 19 SRR 1037, 1039; Behring International, Inc. Independent Ocean Freight Forwarder License No. 910 (Initial Decision, March 17, 1981, administratively final June 30, 1981), 20 SRR 1025, 1032-33.

Not only has the Commission followed a policy of favoring settlements, but it has approved settlements of administrative and investigative proceedings even when, as here, there has been no admission or finding of violations of the Shipping Act. Eastern Forwarding International, Inc. - Independent Ocean Freight Forwarder Application - Possible Violations, Section 44, Shipping Act, 1916 (Initial Decision, July 30, 1980, administratively final September 8, 1980), 20 SRR 283, 286 ("Eastern"); Far Eastern Shipping Co.--Possible Violations of Sections 16, Second Paragraph, 18(b)(3), and 18(c), Shipping Act, 1916 (Initial Decision, March 25, 1982, administratively final

May 7, 1982); 21 SRR 743, 764 ("FESCO"); Armada Great Lakes/East Africa Service, Ltd.; Great Lakes Transcaribbean Line (Initial Decision, March 21, 1986, administratively final April 25, 1986), 23 SRR 946, 949 ("Armada"); Member Lines of the Transpacific Westbound Rate Agreement - Possible Violations of the Shipping Act of 1984 (Initial Decision, August 27, 1986, administratively final October 9, 1986), 23 SRR 1329, 1340 ("TWRA").

In approving proposed settlements the Commission has set forth those standards which it considered appropriate. They were summarized in FESCO, supra, as follows:

. . . settlement may be based upon a determination that the agency's "enforcement policy in terms of deterrence and securing compliance, both present and future, will be adequately served by acceptance of the sum to be agreed upon"; that "the amount accepted in compromise . . . may reflect an appropriate discount for the administrative and litigative costs of collection having regard for the time it will take to effect collection"; the value of settling claims on the basis of pragmatic litigative probabilities; i.e., the ability to prove a case for the full amount claimed either because of legal issues involved or a bona fide dispute as to facts; and that penalties may be settled "for one or for more than one of the reasons authorized in this part."

The relationship between the criteria for assessment of penalties and the criteria for approving settlements is summarized in Armada, supra, 23 SRR at 956, as follows:

As seen, Section 13(c) of the 1984 Act and §505.3 of the Commission's regulations, which implements both Section 13 of the 1984 Act and Section 32 of the 1916 Act, explicitly set forth criteria for assessment of penalties, and while they do not directly address the criteria for settlement of penalties, I believe the latter are subsumed by the former. This is manifest from the history of the settlement process at the Commission.

Section 32(e) of the 1916 Act was enacted in 1977. [Footnote omitted] The rules and regulations implementing Section 32(e) were promulgated and published by the Commission in a predecessor version of 46 CFR §505, in 1979. Under those rules the "criteria for compromise, settlement or assessment" might "include but need not be limited to those which are set forth in 4 CFR Parts 101-105." . . . Those standards, particularly, the standards enumerated in 4 CFR §103, were a part of the Commission's program for settlement and collection of civil penalties even before the authority to assess penalties was given the Commission pursuant to Section 32(e). More to the point, it was held that those standards provided criteria for both settlements and assessments. "They continue to provide valuable assistance to the commission as an aid in determining the amount of penalty in assessment proceedings and in determining whether to approve proposed settlements in assessment proceedings." [citing Eastern and Behring International, Inc., supra.]

See also Marcella Shipping Co. Ltd. (Initial Decision, February 13, 1986, administratively final, March 26, 1986), 23 SRR 857, 866.

In view of all of the above, it remains for the undersigned under the authority of 46 CFR 505.3(a), to decide whether or not the Settlement should be approved. In applying the appropriate criteria to the Settlement involved here it is necessary to balance agency enforcement policy in terms of deterrence and securing future compliance, litigative probabilities, litigative and administrative costs and such other matters as justice may require. In their Joint Memorandum in Support of the Proposed Settlement the parties urge adoption of the Settlement by discussing the various criteria. As to enforcement policy both Hearing Counsel and YML agree "that the settlement amount [\$168,666.67, plus interest] is substantial and fairly reflects

the seriousness of the issues involved." Hearing Counsel further states that the payment, "in conjunction with the cease and desist provision of the settlement, will insure future compliance by the Respondent and will communicate that the Commission is determined to enforce adherence to the requirements of the 1984 Act."

As to litigative probabilities and cost of litigation, both parties aver that they would prevail. However, they note that "the outcome of any litigation is uncertain" and would be "complicated and time consuming." They agree that "the cost of litigating this matter would be substantial" noting that obtaining the sworn testimony of individuals located in Taiwan would raise "legal issues and logistical problems, the resolution of which could be lengthy and costly." Finally, they estimate that if any hearings were necessary in this proceeding they would take up to four weeks with California as the place of hearing.

Conclusions

After consideration of the entire record, the Settlement is hereby approved. The Settlement properly balances the interests of the government and the Respondent in light of the facts and issues presented. Certainly, there can be no question that a trial in California or Taiwan, with foreign witnesses and the need for translation of their testimony, not to mention the assimilation of the documents involved, would impose a substantial financial burden on the parties. The resulting briefs, initial decision, potential exceptions, Commission

review, and perhaps judicial review, would add to that burden. In addition to the above, it is held that the Settlement and the monetary payment involved properly serves to deter YML and others from engaging in those activities which might raise the same issues involved in this proceeding. In so holding, it is noted and understood that the Settlement specifically provides that the Respondent is not admitting any wrongdoing. However, as has been noted in previous cases, the payments made by the Respondent are a heavy price to pay for the right to argue it is without fault, and it, as well as others, would do well to avoid that predicament in the future.

Before completing this decision there are two points which need to be discussed and clarified. The first has to do with the cease and desist order contained in the Settlement. It reads:

1. That Respondent shall cease and desist from making payments or assessing charges on cotton shipments except in accordance with the provisions of its tariffs or service contracts on file with the Commission;

Given the specific nature of the controversy here, i.e., the payment of rebates to consignees or employees of consignees, it is unclear as to exactly what the cease and desist order means. For example, does it mean YML will not pay any commissions to Morrison and/or individuals, or that it will not pay commissions to individuals, or that, if commissions are paid, the tariff or service contract will spell out the amount to be paid. So as to avoid any misunderstanding the approval of the Settlement is predicated on the understanding that YML will not make any

commission payments to anyone unless the tariff and/or service contract specifically so provides.

The second point which needs clarification has to do with YML's record keeping. It must be understood at the outset that whatever may be contained in the laws of Taiwan, YML's records must be maintained in a manner consonant with the Federal Maritime Commission's regulatory duties. Specifically, it must maintain and have available records such as bills of lading and other shipping documents respecting shipments of cargo by water from the United States to Taiwan. If it pays commissions for cotton shipments it must maintain records showing what commissions were paid, when they were paid, to whom they were paid, and to what shipment they were related.

In response to the undersigned's concern regarding record keeping, counsel for YML, by letter received on September 19, 1988, indicated that the "inherent pitfalls of Yangming's existing documentation practice" involved "(a) lack of cross-references of the documents to individual bills of lading; (b) misplacement of some/all documents; (c) losing of some/all documents; and (d) inadvertent discard of some/all documents." Further, the letter indicated that YML and Hearing Counsel agreed to add the following language to the Settlement:

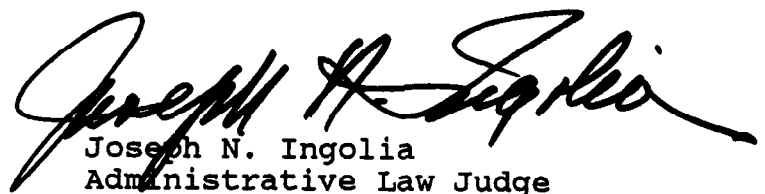
In order to correct past record keeping problems and to be able to make available, upon Commission request, all relevant documentation associated with cotton shipments ex: United States carried by it in the future, Yangming will maintain in a readily accessible and retrievable manner copies of all relevant booking and commission documents for each bill of lading representing any portion of the cotton cargo volume set out in a particular cotton billing so that

said documents can be cross referenced against the applicable cotton bill of lading.

The above language is hereby incorporated into the original Settlement with the understanding that its adoption is predicated on factual assertions made by the YML. Should those assertions be inaccurate so that the newly incorporated language proves ineffective or inadequate, nothing contained in the Settlement or in this Initial Decision shall serve to abrogate or mitigate YML's responsibility to keep proper and adequate records.

Order

It is, Ordered, that the proposed settlement be approved and that the terms and conditions of the settlement are incorporated in this paragraph as if more fully set forth herein. The payment of monies contemplated in paragraph 2 of the Settlement shall be effected no later than thirty (30) days after service of the Commission's final decision.


Joseph N. Ingolia
Administrative Law Judge

Washington, D.C.
September 23, 1988

(S E R V E D)
(October 27, 1988)
(FEDERAL MARITIME COMMISSION)

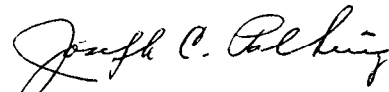
FEDERAL MARITIME COMMISSION

DOCKET NO. 87-2

INVESTIGATION OF REBATES AND OTHER MALPRACTICES -
YANGMING MARINE LINE, A.K.A., YANGMING MARINE
TRANSPORT CORPORATION AND YANG MING LINE

NOTICE

Notice is given that no exceptions were filed to the September 23, 1988, initial decision in this proceeding and the time within which the Commission could determine to review that decision has expired. No such determination has been made and accordingly, that decision has become administratively final.


Joseph C. Polking
Secretary